

Minutes of the State Board of Health

March 13, 2002

A meeting of the Washington State Board of Health (SBOH) was held at the Phoenix Inn in Olympia, Washington. The public meeting of the SBOH was called to order at 9:35 a.m. by Linda Lake, Chair.

The following Board members were present:

Linda Lake, MBA, Chair
 Vickie Ybarra, RN, MPH
 Maxine Hayes, MD
 Margaret Pageler, JD
 Charles Chu, DPM

The Honorable Neva Corkrum
 Thomas H. Locke, MD, MPH
 Joe Finkbonner, RPH, MHA
 Carl Osaki, RS, MSPH
 Ed Gray, MD

State Board of Health Staff present:

Don Sloma, Executive Director
 Craig McLaughlin, Senior Health Policy Manager
 Doreen Garcia, Senior Health Policy Advisor
 Marianne Seifert, Health Policy Advisor

Desiree Robinson, Executive Assistant
 Jennifer Dodd, Assistant to the Board
 Melissa Burke-Cain, Assistant Attorney General

Guests and Other Participants:

Mike Gallagher
 Jamie Green
 Lisa Messmer
 Thelma Simon
 Maria Mason
 James Green
 Art Busch
 Sherri Wills
 Katherine Sanders

Marianne Guichard
 Jim Vanderslice
 Bonita Hill
 Kendall Osborn
 Julene Pague
 Warren Perry
 Glenna Green
 Bill Barron
 Judie Stanton

Marcia Riggers
 Joanne Prado
 Harriet Ammann
 Darrell Cochran
 Keith Simon
 Tom Eaton
 Sheila Sandwick
 Henry Mustin

APPROVAL OF AGENDA

Motion: To approve the March 13, 2002 agenda.

Motion/Second: Corkrum/Locke

Approved: Unanimously

ADOPTION OF JANUARY 9, 2002 MEETING MINUTES

Motion: To approve the January 9, 2002 minutes as submitted.

Ms. Corkrum requested that the Juris Doctor title be removed after her name.

Motion/Second: Ybarra/Osaki

Approved: Unanimously as amended

DEPARTMENT OF HEALTH UPDATE

Dr. Maxine Hayes, State Health Officer, represented Department of Health (DOH) Secretary and Board Member Mary Selecky at the Board meeting. Because the Board was ahead of schedule, Chair Lake asked whether Dr. Maxine Hayes would provide the monthly Department of Health update for the Board prior to the public hearing. Dr. Hayes passed out materials on planning efforts for bioterrorism preparedness and federal funding. She said she would spend the entire time for her presentation discussing that planning. (For more information, see handout.) Board Member Margaret Pageler said it sounded as if funds would be focused on planning and coordination and asked what we would do to increase capacity. Dr. Hayes said the state is poised to deal with capacity because of the assessments and analyses it has already done. Chair Lake asked whether the federal funds would address the overall readiness of the public health system, which has been weakened over the years.

Dr. Hayes said she anticipates that there will be improvements in the public health system. Board Member Ed Gray asked whether the state was working with the province of British Columbia. Dr. Hayes said there have been conversations between labs on both sides of the border, and conversation between health directors, and more conversations have to take place once more capacity exists within the state. Board Member Tom Locke asked what stage current thinking is at about models for creating preparedness regions. Dr. Hayes said a lot of legal and political work still needs to be done before reaching agreement on a regional model.

PUBLIC HEARING ON PROPOSED CHANGES FOR WAC 246-215-150- SERVICE ANIMALS

Chair Lake addressed the attendees with the following statement:

“This is a public meeting of the SBOH held under provision of RCW 43.20. Notice of the meeting was provided in accordance with provisions of RCW 34.05, the Administrative Procedures Act. Those members having any conflict of interest on any item coming before the Board will report that conflict with respect to the particular subject under consideration. In case of challenge of any Board members by the public, the Board shall decide the status of the challenged members to participate before considering the substance of the matter.

Copies of all materials supplied to the Board for today’s meeting have been available since close of business last Friday from the Board’s Olympia office and on the Board’s Web site at www.doh.wa.gov/sboh. They are also available today, along with anything else we have received since, at the table in the back of the room. To conserve public funds, we have only made as many copies as we feel will be needed, so we may run out of some particularly popular items. If you do not find a document you need, please ask Desiree Robinson, or another Board staff person for one.

Our meeting today is open to the public, so please feel free to listen in on informal discussions involving Board members or staff, including any that may occur during breaks or lunch.”

Board Member Carl Osaki referred Board members to the materials behind Tab 3 in the board packets and explained that the proposed rule change that would change “Guide dogs or service dogs...” to “Dog guides or service animals...” in WAC 246-215-150 (7)(c)(iv). He said the change would ensure that the current food regulation is consistent with federal law, specifically the Americans with Disabilities Act (ADA). Staff Member Marianne Seifert said the change resulted from a citizen contacting the department about perceived discrimination when she tried to enter restaurants with her miniature service horse. Chair Lake asked whether changing this rule would create any responsibility for distributing that information about the change. Mr. Sloma said staff could talk to DOH about communicating the change to local health directors. Dr. Gray asked the definition of the word “service.” Mr. Sloma said that “service animals” is defined in chapter 70.84 RCW. Mr. Osaki recommended that the change to the rule be approved. Dr. Gray said is he not comfortable that the Board is where it needs to be if industry has not been adequately consulted. Mr. Osaki mentioned that the Board might have some legal exposure if it is out of step with the ADA. Chair Lake noted that restaurant owners are already required to comply with the ADA. Dr. Locke said he supported the notion of being consistent with the ADA, but said he would prefer that the decision be evidence-based; if there is no evidence that there is disease transmission from service animals, then it is not an issue.

Motion: The Board adopts the proposed rule changes to WAC 246-215-150 (7)(c)(iv) language changing “Guide dogs or service dogs...” to “Dog guides or service animals...”

Motion/Second: Osaki/Corkrum

Approved: 9 ayes, 1 nay (Gray)

SBOH STAFF ANNOUNCEMENTS, BUDGET AND OTHER BOARD BUSINESS

Mr. Sloma directed the Board to the newly published *2001 Final Report on Children's Health and Well-Being* in the Board packets. Chair Lake complimented the people who had worked on this product. Dr. Gray asked whether practical benefits would result from producing this report. Mr. Sloma said several groups were looking at ways to provide critical preventive services for children and might make use of the report. Dr. Hayes mentioned the influence of the Board's work on the policy conversations and agreements about Medicaid within the Agency Medical Directors Group.

Mr. Sloma then directed the Board to the proposed *2002 State Health Report* in the Board packets and said it had been transmitted to the governor. Chair Lake noted that the process that led to the report was also beneficial. Dr. Locke asked when it becomes a public document that can be presented to different groups. Board members agreed they would like to promote the report with the governor and encourage him to take action.

At Mr. Sloma's request, Marianne Seifert, Policy Analyst for the Board, reported on a meeting in Whatcom County about sewage spillage and mercury contamination issues around Lake Whatcom. Community members invited Board Member Joe Finkbonner, Ms. Seifert, Water District 10 staff, local health department staff, and others to discuss Lake Whatcom water quality issues. Mr. Finkbonner and Ms Seifert attended.

Mr. Sloma provided a quick update on the rule review on the emergency powers and duties of local health officers, noting that a meeting with a workgroup with law enforcement and local government is scheduled for March 27. He then discussed several items in the packets: the transmittal letter and transmittal list on the *2001 Environmental Justice Final Report*; materials on the Gene(sis) exhibit at the Henry Art Gallery and its ties to the April meeting of the Genetics Task Force; and changes to the FYI section of the agenda. He recognized both Patty Hayes and Maxine Hayes for their recent awards.

The last item Mr. Sloma discussed was the budget. Chair Lake asked Mr. Sloma to walk the Board through his memo summarizing the budget. Ms. Pageler said it would be helpful to have a Board committee to work with Mr. Sloma and Chair Lake on budget issues. Ms. Corkrum asked if the Board might be treated like other boards and not be asked to take additional cuts. Mr. Sloma said the Board seems to be treated as an administrative cost within the Department of Health budget, while some boards and commissions have been exempt from budget cuts. Board Member Charles Chu asked if state revenue might increase. Mr. Sloma said the revenue assumptions are based on the best efforts of Revenue Forecast Council. Dr. Chu suggested the Board might want to meet at SeaTac to save money. Dr. Hayes said that austerity often precipitates more clarity and suggested the Board might want to start a conversation that would help it become clearer about its value and core functions.

Dr. Locke said he has raised the issue of Board funding among local public health officials and said that cuts to the Board's budget are part of the dismantling of the public health system. He said people should examine what constitutes the core essential public health system in this state and discuss how to rebuild it. He warned that crisis-driven cuts often become the new funding base and that is how the system gets cut permanently. He noted that local public health has identified the need for stable, long-term funding and that the Board and elements of DOH have to find other stable funding source outside of the general fund-state.

Chair Lake asked how members felt about Ms. Pageler's suggestion to form a budget committee. Board Member Vickie Ybarra suggested the budget committee comprise the Board chair and the chairs of the priority project committees. Dr. Gray said the Board should maintain a clear,

established relationship between its work and the broader definition of health, and it should not separate public health from private medical care.

LEGAL MEMORANDUM- SBOH AUTHORITY REGARDING GIFTS & GRANTS

Mr. Sloma reviewed the previous Board discussions about its ability to solicit and receive gifts and grants. Melissa Burke-Cain, Board counsel, reviewed her memorandum to the Board. The memorandum concluded the Board has no authority to solicit or accept funds, but other agencies (for example, DOH and DSHS) have broad authority to accept grants, donations, etc., and the Board could form partnerships with them to perform grant-funded work. Attention must be paid to possible conflicts of interest, she said, especially given the Board's regulatory authority. Mr. Osaki presented the possibility of obtaining federal funds for work on children's environmental health as an example and asked whether grants might be identified to fund Board activities. Ms. Burke-Cain replied that the Board could receive those funds through a partnership agreement if the activities were within its statutory authority.

LEGISLATIVE UPDATE

Craig McLaughlin, Senior Health Policy Manager, reviewed his memo to the Board on proposed legislation during the 2002 session. He said Board staff and members were very active during the 2002 legislative session. He also reviewed the status and evolution of bills listed in Bill Watch. Ms. Pageler said the level of legislative activity indicates that the Board is seen as active in policymaking. Patty Hayes, Director of Legislative, Policy and Constituent Relations for DOH, reviewed the fiscal impacts of legislation and discussed improved processes for coordination of fiscal notes between DOH and SBOH. Chair Lake asked Board members how the process worked for them. Mr. Osaki expressed his concern about being asked for his opinion on legislation as a Board member when he cannot know the Board's opinions or speak for the entire Board. Chair Lake recommended that before next session Board members and staff review the legislative process. Mr. McLaughlin said that letters used in testimony clearly stated they reflected the opinions of individual Board members and that the entire Board had not taken a position on any legislation. Ms. Hayes reviewed targeted budget cuts for DOH. Mr. Osaki reminded the Board that Senate Bill 6588 regarding the food code would have a significant impact on the Board over the next two years due to the rule revision deadline of December 2004.

FEATHERSTONE REID AWARD

Mr. McLaughlin directed the Board members to the Featherstone Reid Award nomination memo in the Board packets. He said the nomination review committee recommended that the Board forward the name of John Welsh to the secretary of health for further consideration. Mr. Locke agreed that John Welsh was an appropriate nominee. Chair Lake said she was impressed with the work of the committee members.

Motion: Adopt the recommendation of the committee and forward it to the Secretary of Health.

Motion/Second: Neva Corkrum/Tom Locke

Approved: unanimously

LUNCH

HEALTH DISPARITIES WORK PLAN

Mr. Finkbonner directed the Board to the materials behind Tab 9, including the draft work plan for the Health Disparities Committee.

Motion: The Washington State Board of Health approves the Draft Summary Of Planned Work, Health Disparities, 2001-03 as submitted March 13, 2002.

Approved: Unanimously

Mr. Finkbonner then discussed the May 12 meeting of the Health Care Workforce Diversity Network, which he said was very successful. Ms. Ybarra said people agreed to roll up their sleeves and see what they could achieve with limited resources.

DISSOLUTION OF THE SOUTHWEST WASHINGTON HEALTH DISTRICT

Mr. Sloma directed Board members to the material behind Tab 10, which concerns the proposal to dissolve the Southwest Washington Health District and have Clark County assume responsibility for delivering public health services in the county. He introduced Judie Stanton, Chair of the Clark County Commission, and Bill Barron, Clark County Administrator. He reviewed his memorandum to the Board, noting that the statute for the dissolution of a health district requires counties to meet standards established by the Board. He noted that other districts are considering actions similar to Clark County's.

Ms. Stanton explained her role with the local Board of Health and provided background on how counties see the current situation. The County Commission has looked at reducing spending in response to citizen initiatives and referenda, and has focused on internal cuts, rather than reductions in the delivery of services. A lot of counties are now in financial difficulties. They also face increased federal impacts, such as reporting requirements under HIPAA. She said Clark County looked at how to reduce costs internally and noted that there may be internal efficiencies that come from bringing public health under the county administrative structure. She said the change would also provide better oversight and accountability. Currently, she said, the county's lead responsibility is to public safety and that will likely change to public health and safety.

Mr. Barron spoke about how the change would be implemented. He said key department heads have formed a transition team, have developed a communications plan, have agreed to five overriding principles, and are working with their peers of the health district.

Ms. Pageler asked about funding and participation from cities. Ms. Stanton said there is no funding from cities in Clark County. She said the county may form an advisory group and that group could include representation from city officials. Dr. Gray asked whether the essential elements of district, such as environmental health section, will remain, and whether that will be true also in Skamania County. Ms. Stanton said it has not been determined whether all the functions would stay under the executive director of the health district. Ms. Lake asked how much direct client or patient service the district provides. Ms. Stanton said it was more than she expected and there are still direct services provided by the district. Chair Lake asked about Board members' reactions when they heard that the district might be dissolved. Mr. Locke said a big concern of the Board is that the public health system might be falling apart. He suggested that advisory committees have been very beneficial in many jurisdictions, as have interagency agreements. Ms. Stanton said the county might need guidance about setting priorities for public health activities. Ms. Pageler urged Mr. Barron to talk to Dr. Gray or Bill White, DOH Assistant Secretary for Environmental Health about problems that arose when Pacific County folded environmental health into the permitting department. She also noted that public health could do a lot to improve public safety. Dr. Hayes said that Secretary Selecky would be working with the county and that DOH was available to assist with any transition.

PERSISTENT BIOACCUMULATIVE TOXINS

Mr. Osaki reminded the Board that the issue of persistent bioaccumulative toxins (PBTs) had come before it about a year ago when the Department of Ecology (DOE) requested, and received, support from the Board. The Department of Ecology received funding from the Legislature for continued work on PBTs during the 2001 session and wished to report back to the Board on its progress. Ms. Seifert noted that PBTs had also been a legislative issue during the 2002 session. Mike Gallagher, Persistent Bioaccumulative Toxins Coordinator, Washington State Department of Ecology,

introduced Sherry Peel, whom the Department of Ecology hired to draft a mercury action plan. Mr. Gallagher and Ms. Peel then provided an overview of Ecology's mercury reduction plan. (See the PowerPoint slide show.) Ms. Pageler asked if there is a market for reuse of collected mercury. Ms. Peel said that the market value is so low that you often have to pay to dispose of fluorescent light bulbs. Ms. Pageler said regulations that are not convenient for the consumer often undercut our efforts to protect the environment.

Mr. Osaki asked about the symptomology of mercury poisoning and whether medical personnel are trained to recognize it. Harriet Amman, toxicologist with the Department of Health, said an occupational physician would ask appropriate questions, but a general population practitioner probably wouldn't. Most changes are very subtle, she said. Ms. Ybarra asked to hear from Board members who are physicians. Dr. Locke concurred that mercury poisoning is largely an occupational issue for physicians. He said the greatest environmental concern is organ damage and subtle neurological changes over time. Mr. Osaki said the DOE strategy is wonderful but asked how we evaluate whether it is making a difference, especially if physicians aren't picking up the symptoms.

Joanne Bonner Prado, Department of Health, said her strategy was to develop communications strategy for fish advisories and included a component for reaching health providers. The DOH and DOE partnership opens up opportunities for educating health care providers. Dr. Hayes noted that DOH does have the ability to partner with provider groups, particularly those that treat children. She noted that we do have an epidemic of neurological dysfunction among children.

SCHOOL INDOOR AIR QUALITY

Mr. Osaki introduced the discussion of indoor air quality in schools by providing some background about previous requests that the Board explore school indoor air quality issues. He recommended that the Board consider some strategies that may be helpful to deal with school indoor air quality concerns. Ms. Seifert provided additional background information (see Carl Osaki memo in Tab 12).

Maryanne Guichard, of the Office of Environmental Health and Safety, Department of Health, talked about school programs and health and safety guidelines. She said that indoor air issues are real problems, that sometimes these issues are very complex (they often cannot be attributed to a single source), and that DOH is taking steps to address these issues. She mentioned that DOH's role is advisory, and that their indoor air program has 2 FTEs. DOH staff get directly involved with issues and take a proactive approach by issuing guidelines, consulting with the public, holding training classes, and doing field investigations as requested. When DOH is called into a site, she said, it will gather information by doing a site visit and walk-through examination, observe problems, consult with partners, look for remediation actions, and work with local health jurisdictions. She said that there are new initiatives within DOH to update guidance documents, that DOH is looking for grant dollars to provide technical expertise and education, and that the department will partner with the Office of the Superintendent for Public Instruction (OSPI), community groups, and others to put together a plan for addressing school issues.

Jim Vanderslice, Office of Environmental Health Assessment, Department of Health, spoke about the DOH indoor air quality program. He emphasized the complexity of buildings, particularly the air systems, the potential for multiple sources of contaminants, and how difficult it is to track down specific sources of contamination. Contaminants have a wide variety of health impacts that are known. It can be hard to attribute symptoms to specific causes. There are also wide individual differences in susceptibility to contaminants. A great deal of information is required to identify the root cause of building air quality problems, so it is valuable to gather all sorts of information. Air quality is going to continue to be a problem that has to be managed, as both an acute problem and a chronic problem, to keep schools safe environments for kids, he said.

Mr. Osaki asked whether people experienced with schools have identified effective public health protection measures. Ms. Guichard said schools have asked for a better data system. Mr. Vanderslice said it is more about proactive assessment and preventive measures. Ms. Seifert said a 1996 attorney general's report described school construction issues. Dr. Hayes noted that schools' infrastructure is old and many are very poorly constructed, but as we built new sites, health agencies should be working with the boards of education to ensure safety. Dr. Gray said the common thread is that the lowest bidder builds all schools and that some old assumptions about construction have turned out to be invalid. Ms. Amman said the research addressing construction of roofs in areas with a lot of snow concluded that roofs should be pitched and not flat. The secret is in prevention and maintenance, she said; building a school properly from the beginning.

PUBLIC TESTIMONY

Chair Lake addressed the attendees with the following statement:

"Let me say a few words before we begin the public testimony portion of our meeting. The Board listens carefully to everyone who comes before us, but Board members rarely respond directly to public testimony. We may follow up with questions to make sure we understand the testimony, but typically we do not engage in dialogue or consider any action at this time. If we think future action may be needed, we will ask a staff member to follow up, to conduct any necessary research, and to report back to the Board about possible actions at a future meeting."

Maria Mason, a parent from Bainbridge Island and member of the Coalition for Environmentally Safe Schools, said things have not changed significantly since she first testified before the Board nine years ago. She described several scenarios involving illnesses in schools and unsuccessful efforts to involve state officials. She showed two news videos about the Cle Elum schools and Woodward Elementary on Bainbridge Island. She distributed recommendations to the Board (see Tab 13).

Ms. Mason introduced Kendall Osborn, a teacher for Cle Elum High School since April 1987. Mr. Osborn said he was hired full time in September 1988. In fall of 2000 he noticed a variety of symptoms. In February he met with other teachers and the superintendent. On September 25 he left the school so he could find out what was wrong with his health and the school. A physician said he should not return to the building. He distributed recommendations to the Board (see Tab 13).

James Green, father of Jamie Green, a Cle Elum student who had symptoms including mild asthma and pneumonia, testified that her symptoms have grown worse. He described his daughter's medical history and his efforts to get action from state and local agencies. He presented 642 signed statements from citizens asking for testing and remediation at Cle Elum High School. (For written testimony, see blue binder on file.)

Jamie Green, a former Cle Elum high school student, testified that she thought it was unfair that she had to be home schooled and miss out on high school and had to continue to fight this battle. (For written testimony, see blue binder on file.)

Thelma Simon spoke as a parent of a former Cle Elum student who has had to transfer to another district for health reasons. She said the recommendations in various reports have not been implemented. She asked who is inspecting schools and said the local environmental health inspector had no background in indoor air quality. She noted the school buildings are used for a variety of community purposes. She said the Kittitas County Board of Health said it is not their responsibility to inspect schools. (See Tab 13 for testimony summary.)

Sheila Sandwick, a member of the Washington Education Association task force for indoor air quality, testified that she has had health impacts from high levels of benzene and toluene in her blood from school exposure. She has also served on indoor air quality committees for the U.S. Environmental Protection Agency and DOH. She has been trained in the EPA Tools for Schools program, and believes that many schools are looking for guidelines. She said the Board should help try to solve the problem. Because of the lack of funding, air quality problems will continue.

Henry Muston, health officer for Kittitas County for the past year, said air quality at the high school is a very complex issue. The local health department, DOH, and the state Department of Labor & Industries did a walk-through that involved climbing into the crawlspaces and walking around, he said. The group did not see any evidence of problems. He said the local health department has tried to get some expert help with this issue. He said he is struggling with this and is aware of multiple problems people are experiencing. There has been some thought given to bringing in professional assistance in risk communication. They will bring in Mr. Rich Prill, an expert from Washington State University, to do a walkthrough and local officials will participate. (See Tab 13 for memo from Nancy Goodloe, Kittitas County Health Department Administrator.)

Mr. Osaki asked if the Board staff could get us the California legislation. He noted that this is a complex issue that could involve lots of agencies. He wondered if staff, perhaps DOH, might convene a group to examine the policy issues involved. Dr. Locke said the issue before the Board is the adequacy or inadequacy of the existing rule. Mr. Osaki said the Board's responsibility is to prevent these problems from occurring in the first place. Harriet Amman, State Department of Health, noted the National Institutes of Health is convening a panel about the health effects from damp buildings. That report might look at what is known and what is not known and where future research should go. Chair Lake said our criteria suggested the Board might want to take this on. Mr. Osaki said we might ask the Department of Health whether it could put together a workgroup. Dr. Locke said he brought up the issue of adequacy of the rule because when you have a system driven by the lowest bidder, the only thing that opposes that is a system of standards. Mr. Sloma said it was well within the Board's statutory authority.

Marcia Riggers, Assistant Superintendent, Office of the Superintendent for Public Instruction, said school indoor air quality concerns raise particular issues, such as the lack of a data system for tracking efficacy of local solutions. She said her office would welcome the opportunity to partner with the Board. Chair Lake directed Mr. Sloma to work with OSPI and other partners to form a workgroup. Mr. Sloma asked for direction about timing. Chair Lake said she would like a progress report in May.

Chair Lake adjourned the meeting at 4:45 p.m.

WASHINGTON STATE BOARD OF HEALTH

Linda Lake, Chair